IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1432 0F 2006

IN

CRIMINAL APPLICATION NO. 1694 OF 2006

Sanjay Kumar Vastimalji Jain..... Petitioner.

Versus

State of Maharashtra & Anr.. ..... Respondents.

Mr. M.S.Prasad for the Petitioner.
Mr.M.H.Mhatre, APP for the State.
Mr. M.D.Mali for Respondent No.2.

CORAM : D. B. BHOSALE, J.

DATED : 7TH JULY, 2006.

P.C.:

Rule. By consent, rule made returnable and heard forthwith.

2. Heard learned counsel for the parties.

3. This petition is directed against the order dated 16th January, 2006 by which the appeal of the petitioner came to be dismissed for noncompliance of the earlier order. It is also recorded that there was

nothing on record to show that the amount ordered has been deposited. Learned counsel for the petitioner submits that in fact the petitioner had deposited the amount as per the earlier order on 12th August, 2005. The petitioner has annexed a copy of the receipt to the petition at Exhibit "A". The petitioner had also filed application seeking restoration of the appeal by bringing the aforestated facts to the notice of the court. However, that application was rejected as not tenable in law. Hence the petitioner has approached this court.

4. Considering the facts and circumstances of the case and in particular that the amount as directed by the Sessions Court, was deposited in August, 2005, the order impugned in this writ petition is set aside. The appeal stands restored to the file of the Sessions Court. The Sessions Court shall decide the appeal on merits.

5. Rule made absolute in the above terms. Writ Petition is disposed of, accordingly.

Sd/-

(D. B. BHOSALE, J.)